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Friday, May 17, 2002

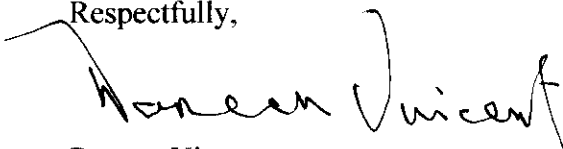
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20555

Dear Ms. Dortch:

Enclosed please find nine stapled copies and one unstapled original commenting on the matter of MM Docket No. 98-204 Second Notice of Proposed Rulemaking on EEO rules. This package responds to Public Notice DA 02-1025, dated May 3, 2002.

If clarification is needed, contact information is as above.

Respectfully,



Doreen Vincent

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**Before the
Federal Communications Commission
Washington, D.C.**

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In the matter of Second Notice of
Proposed Rulemaking
June 24, 2002 en banc hearing
to discuss new broadcast and cable
equal opportunity ("EEO") rules

) MM Docket No. 98-204
) Second NPRM on EEO rules
) Public Notice
) May 3, 2002
) DA 02-1025

**Remarks of Doreen Vincent, Video Producer, and Executive Director of Ability Today,
Incorporated.①**

First let me applaud the Commission for its efforts to make television more accessible to America's deaf and legally blind populations. As a physically impaired media professional, I also advocate to increase the transfer of information to persons with disabilities in all age groups, whether the disability is sensory, mental, or physical; whether it is severe or slight.

My comment on FCC's EEO regulatory language was submitted and subsequently amended for MM Docket No. 98-204. It is that attached amended comment, faxed to FCC attorney Hope Cooper on April 9, 1999, that is at the core of my remarks to you today. It is with respect that I ask the Commission to consider that the absence of the condition of disability in Sec. 73.2080 Equal Employment Opportunity (hereafter EEO) regulatory language obscures FCC's position regarding individuals with disabilities, and this ambiguity serves to defeat the Commission's public interest objective to disseminate diverse information and viewpoint. Quoting the Commission in MM Docket No. 98-204 paragraph 53, "Indeed, it has long been a basic tenet of national communications policy that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." (Turner Broadcasting System, Inc. v. FCC, 512 U.S. 622, 633 (1994) (*quoting United States v. Midwest Video Corp.*, 406 U.S. 649, 668 n.27) (*quoting Associated Press v United States*, 326 U.S. 1, 20 (1945.) noted.

The first President George Bush declared: "Disabled people are the poorest, least educated, and largest minority in America."² The attached Community Media Review article agrees, and faults America's teleculture for choosing not to see this as a problem, reporting:

"...instead of a proportionate amount of air time relating to this 20 percent of the American population, disability and the disabled get considerably less than one percent of media time. Why? The answer is simple. America's mainstream media is disabled in its capacity to tell media stories which express the joys, pains, the realities and potentials of the disabled."

The link between the lack of disability issue information being transmitted by FCC regulated licensees, and the licensees' historic lack of hiring qualified disabled professionals, is conspicuous. Nevertheless the Commission holds that the power to resolve electronic media's 68-year history of circumventing the EEO hiring of disabled professionals' falls solely under the jurisdiction of the 12-year old Americans with Disabilities Act,³

This writer is an over fifty, award winning media professional who meets the statutory definition of disabled. The region within which I reside has a disabled population numbering approximately 141, 000. Having recently responded to a Public Broadcasting Service open call for "video shorts," and having had the Program Director reject the presented "shorts" *solely* because of their disability issue content, I extend informed comment on public and private television's abysmal EEO and programming outreach to America's largest minority --the disabled community.

Ladies and gentlemen of the Commission, although Census data records that less than one percent of professionals employed in today's broadcast and television industries are people with disabilities, the disabled community does not seek to alter television's central service, nor does it seek to coerce the electronic media industry to hire any particular person. What disabled citizens seek are changes in the Commission's EEO rules that afford a qualified individual with a disability equal opportunity to obtain the same result, to gain the same

benefit, and/or to reach the same level of achievement as others. We respectfully believe this to be in the public interest and sufficiently justified to be in accordance with Constitutional demand.

Unlike the dark years when this nation had so-called “ugly laws” to keep disabled people off the streets,^④ today’s citizens with disabilities are, in increasing numbers, attending schools and colleges, driving, getting married, having children, vacationing, entertaining, taking part in recreational activities, and working in professions ranging from senator to schoolteacher. Given the vastly changed nature of disability, there is more than sufficient justification for the Commission and the nation’s electronic media industries to take stock of the long-standing lack of employment outreach to qualified professionals with disabilities; and, to support a more objective news outreach to today’s upbeat disabled culture.

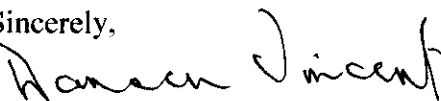
At this time when the Commission is in the process of discussing the issues and views on the proceeding to promulgate new broadcast and cable EEO rules, it would be fair and fitting for the Commission to use its authority and/or to advise Congress that they (FCC) deem it to be in the public’s interest to change Sec. 73.2080 (a) EEO rules to denote respect for (a) Title VII of the Civil Rights Act of 1964, (b) the 1967 Age Discrimination and Equal Opportunity Act, and (c) the 1990 Americans with disabilities Act, thereby making the unambiguous statement that if a job applicant is qualified, the Commission’s EEO rules for licensees prohibit employment discrimination because of race, color, religion, national origin, sex, *and* age and disability.

Honorable Commissioners: Ten years ago, Justin Dart, past Chair of the President’s Committee on Employment of People with Disabilities noted: “We (people with disabilities) will not be truly equal until we have opportunity to communicate the message of our equality.” Still, while 20% of America’s population has some type of disability, less than 1% of the nation’s media professionals with disabilities are presently hired by Commission regulated

industries. In addition, issues of import to the huge national disabled community continue to receive less than 1% media coverage. And when not fund-raising in form, that 1% coverage generally praises the "courage" of a disabled individual rather than extending news of interest or value to the disabled community. News about improved accessibility in the workplace, education, recreation, and public facilities. News that encourages disabled people to participate in life and contribute to both their own and the government's economic well-being.

In conclusion: In MM Docket No. 98-204 NPRM (summary) the Commission stated the truism: *"It is not enough to say that one will not discriminate against anyone who applies for a job when all have not been given a fair opportunity to apply."* The suggested changes to FCC EEO Sec. 73.2080(a) could lead to improved outreach and media hiring of qualified disabled professionals. Disability aware producers, writers, etc. would improve the scope and quality of information now transferring to the national community through the electronic media. And improved disability issue news outreach could in turn help further the integration of people with disabilities into all aspects of society. Surely Congress and the Courts will see this positive cycle of events as sufficient justification for the suggested EEO revisions.

Sincerely,



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① Ability Today was established in 1989 as a unique 501(c)(3) dedicated to creatively serving the news and information needs of media underserved populations. Our programs are freely distributed through national public educational and entertainment access channels, and to libraries, schools, and colleges. The programs are designed to raise awareness, enhance quality of life, and serve the public's interest.

② S. Rep. No 101-116, at 9 (1989).

③ MM Docket No. 98-204 paragraph 74, page 35: "...we (the Commission) note that employment discrimination based on disability is prohibited by the Americans with Disabilities Act."

④ A Chicago statute once read: "No person who is diseased, maimed, mutilated, or in any way deformed so as to be an unsightly or disgusting object or improper person to be allowed in or on the public ways or other public places in this city, shall therein or thereon expose himself to public view." Ohio had a similar statute, as did other states.

Ability Today, Inc.

1837 Losantiville Ave., ML 204E, Cinti., Ohio 45237. Tel/Fax: (513) 731-7705

April 9, 1999

To: FCC Attorney, Hope Cooper (Tel: 202-418-1455)
From: Doreen Vincent (Tel/Fax: 513-731-7705)

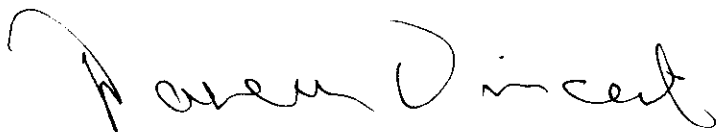
Dear Ms. Cooper:

Many thanks to you and Supervising Attorney Lou Pulley for your courtesy. As you requested, I'm faxing my 1998 comments on proposed rulemaking to FCC. I did not learn of the lack of disability language in FCC's Equal Employment Opportunity (EEO) rules for broadcast licensees until after I sent my comment. I understand I can amend my remarks before April 15, and I'd like to do this by adding the following paragraph.

While FCC's Rule §73.2080 *prohibits* employment discrimination in the case of race, color, religion, national origin, and sex, it does not *prohibit* employment discrimination in the case of disability. When it comes to hiring qualified people with disabilities, the FCC merely *presumes* that licensees will act in "good character" (FCC language.) With respect, this is *not* equal opportunity!

As we discussed, I am one of the nation's 40+ million disabled population. I was rehabilitated into the field of Broadcast Arts & Management following an early life stroke in 1980. I can relate to the need for news outreach to the nation's disabled population and their families. I offer the informed opinion that this critical need will continue until there is an increase in employment of people with disabilities in TV reporting and production. Sadly, FCC's EEO rules for licensees serve to hinder, rather than promote, the hiring of qualified disabled professionals by the TV industry.

Again, thanks for your courtesy. I hope the collaborative articles will be helpful.

A handwritten signature in cursive script, reading "Doreen Vincent". The signature is written in dark ink and is positioned above the printed name.

Doreen Vincent

American Television and the Demographics of Disability

by Howard Davis

Disability is a mainstream American experience, like Mom and apple pie. But its reality and presentation in mainstream American television are often two different universes.

The commercial and public television media treats the "handicapped" as a

source of curiosity, of dramatic relief from the "normal" world, or an item of interest during political discussion of the social safety net. The realities, however, of the American disabled stretch far beyond these media uses.

And instead of a proportionate amount of air time relating to this 20 percent of the American population, disability and the disabled get considerably less than one percent of media time.

Why?

The answer is simple. America's mainstream media is disabled in its capacity to tell media stories which express the joys and pains, the realities and potentials of the disabled. The scale and scope, the existential dimensions of life for America's disabled are almost invisible in our televideo-saturated culture.

We cannot exclusively blame commercial or public TV. The industry only reflects the anti-disability bias of our entire media. For instance, when New York City refused to install public toilets for the disabled at the moment the Americans with Disabilities Act was being implemented nationwide, they used the reasoning that city officials feared public toilets for the disabled may be used by the homeless or junkies. A *Wall Street Journal* editorial condemned disabled complainers for narrow self-interest and said it was simply an issue of "weighing civil rights against common sense."

What the blind cannot see and the deaf cannot hear, they cannot understand or explain. That's American media's disability.

The Handicapped Mainstream Media. This most invisible minority is pervasively

among us. It knows no economic, social, color, sex, religious or age boundaries. And because most of us turn our heads toward the media-hyped super "normal-noids" of Hollywood's image of reality, we wind up turning our heads away from

America's underclass

of the mentally and physically disabled.

Oh, we know that they are there.

Like we know we have

kidneys, lungs, and heart. They are inside our American life. But we don't look at them much—if ever. And in our mainstream television, the disabled are never followed very long.

Almost never is the face of disability presented from the point of view of those who live it. Or live with it—like the scores of millions in our families of the disabled. Beyond the more than 35 to 50 million Americans that are officially disabled at any time, their relatives and friends constitute another enormous group underrepresented in media.

The lack of serious attention in media for such a huge population of Americans is remarkably unreal. It is possible that historically and psychologically, these persons most invisible to the mainstream media actually constitute the largest underprivileged class in America—below the lowest ethnic group in job opportunities, social status, and life fulfillment opportunities. And yet the true story is that these "special" Americans are an undiscovered treasure to our media, our culture and even economic potential.

Enormous Scale and Diversity. Who are the disabled ignored in America's teleculture? And what motivates them?

You may find out because you could join their ranks at any time. "Live long enough, and all the abled become disabled," said one expert, herself disabled later in life. An increasing number of

disabled now joke about the smugness of what they call "the temporarily abled," those of us who may think of ourselves as "normal."

A 1994 census report counted 49 million disabled Americans. But it's difficult to estimate how many disabled we have among us because different folks have different definitions. Most researchers use the limitations to normal life to define the boundary between the abled and disabled population. Others seek a much broader definition to include any disease or chronic health condition. In these looser terms, 120 million Americans live with personal disability—over a third of us. Since disability catches up with us as we age, no one is far from its reaches.

The critically acclaimed book which best summarizes America's disabled population is **NO PITY** by Joseph Shapiro, published in 1994. Shapiro says "there are some 30 million African-Americans. So, even at the lowest estimate, disabled people could be considered the nation's largest minority."

Disabilities claim enormous economic resources. In 1990, federal and state governments spent \$60 billion on checks for disabled people. If all the costs were added up, disability directly costs the U.S. economy \$170 billion. If you added the lost employment and productivity of these persons, the figure would be much higher.

Some disabled don't want to talk about how many there are, because they believe it's pointless. It's easy to understand why. Like all of us, disabled persons resist being pigeonholed. A woman with a severe disability put her feelings on the line about being

placed in a category this way: "Don't keep trying to count us. We are here, you can see most of us if you look."

America's mainstream television chooses not to look. While some disabled activists believe that the disabled community is so extensive and diverse it is

See American Television, page 14...

"Who are the disabled ignored in America's teleculture? And what motivates them?"

"...the true story is that these 'special' Americans are an undiscovered treasure to our media..."

American Television and the Demographics of Disability

Continued from page 8

pointless to quantify it, the scale of our disabled population must be appreciated to understand the potential of media to more accurately portray its nature in American life.

Disease of the Week
Stereotypes. There are hundreds of disabilities. Some are congenital and disenable mental or communication functions like retardation, autism, or cerebral palsy. Who ever saw a sitcom or movie dealing with cerebral palsy?

Have you seen any realistic treatment in dramatic or documentary form, or a first-person extended discussion interview about the three-to-five million learning disabled persons in America? Not much. Maybe an item here or there, a bit on the news magazine, but not much.

As a microcosm of disability, consider autism and its treatment in the media. This is the one rare instance that a disability has been considerably portrayed in the media in the last five years, probably because of its mystical association with occasional brilliant splinter skill traits of genius—like winning at blackjack in Las Vegas as **Dustin Hoffman** portrayed in **Rainman**. Since the days of the American circus, media has always had a niche for “freak” show curiosity.

Such video reductionism doesn't do the autistic person much good. Nor the American public awareness.

There are 250,000 persons with autism in the U.S. Together they would make up a city larger than Pasadena, California. Yet 70% of Americans with autism over 30 years old are institutionalized at a cost of over \$30,000 a year on one form or another of government funding. Compared to rock stars, rap singers, or professional basketball players, American media has no time for autism. Because autism is a disability, and these others are fun.

Smaller in population than Down syndrome, autism has gotten far more dramatic attention than Down syndrome in terms of major characterizations in the disease-of-the-week primetime-for-network movies. But almost always these dramatic

works have shown families and “normal” people plunging into a tragedy. Relationships fall apart with one of the parents becoming crazy, obsessive, or so depressed that sustaining meaningful relationships is impossible. Virtually never does the family persevere after years of difficulty, adjust, and come out stronger. Or even coping. Yet in real life, many families with autism stay together, a trait that is increasing uncommon among marriages in the “normal” population.

More tragic is the real-life impact of this television treatment. An autistic person has never been dramatized as

succeeding in anything in America's fictional television or movies. Would you be the first in your neighborhood to hire an autistic person after watching?

Many of these stereotypes are fictions. They further entrench already ingrained aversion to the disabled. But now autistic persons are succeeding. And with real-life drama, the new population of autistic children growing up with massive early intervention, many are emerging living nearly typical lives.

Did you know that? If you did, you probably didn't learn it from television.

Even **Dustin Hoffman's** portrayal, sensitive and accurate as the professional critics love to think it is, has come to be a noose around the public's neck in choking off public awareness of autism's current realities, many autism activists believe.

Market Potential for Disability Programming. Only

occasionally do we get glimpses of the market potential for programming that treats the disabled realistically.

We can only get a clue from isolated anecdotes. For instance, the response to a Sunday edition newspaper ad which had a Down syndrome child used as a typical model for a product stunned the executives of the Minneapolis-based **Target** department store chain. The ad with the child was only one small picture in the midst of dozens of others in the circular, but it generated over two thousand letters of thanks, recounts **NO PITY** author **Shapiro**.

Public access producers who tell the story of the disabled well often get tremendous and sympathetic responses from the community. It is here that one of the great potentials exist for access to fill a niche unoccupied by anyone else in American media. Several types of programming, in fact all genre, can be used to inform and inspire audiences of the “abled” community, as well as bring hope, information, representation, and entertainment to the disabled community.

The demographics of American disability certainly support a wide open potential for access and community television producers and administrators to fulfill. It's up to us to make it happen.

Howard Davis is Co-Editor-In-Chief of this issue of CMR.

“Public access producers who tell the story of the disabled well often get tremendous and sympathetic responses from the community.”



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